

Department of Permits and Development Management
111 West Chesapeake Avenue
Towson, Maryland 21204
Baltimore County, Maryland

In the Matter of

Civil Citation No. 50396

Barry Zuckerman
Marni Zuckerman

7515 Knollwood Road

Respondent

FINDINGS OF FACT AND CONCLUSIONS OF LAW
FINAL ORDER OF THE CODE ENFORCEMENT HEARING OFFICER

This matter came before the Code Enforcement Hearing Officer for the Department of Permits and Development Management on February 18, 2009, for a Hearing following the Board's Order of Remand to Code Enforcement by Joint Request of Parties.

On September 16, 2008, pursuant to §3-6-205, Baltimore County Code, Code Enforcement Officer, issued a code enforcement citation for violations of Baltimore County Zoning Regulations (BCZR) sections 102.1, 1B01.1, 408B.1, for failure to cease use of the property as an illegal rooming/boarding house. The citation was sent to the Respondent by 1st class mail to the last known address listed in the Maryland State Tax Assessment files.

The citation proposed a civil penalty of \$2000.00 (two thousand dollars).

The Code Enforcement hearing was held on October 15, 2008. Respondents' request for a postponement of the hearing was denied by Hearing Officer Wisnom. Respondents failed to submit answers to interrogatories. Counsel for Respondents, Patricia S. Steiger, Esq., appeared at the October 15, 2008 hearing. Community members testified that four female Towson University students were living at the property and that the women were not related by blood, marriage or adoption. Respondents requested that the four students be allowed to reside at the subject address until the end of the fall semester. In a Final Order issued October 21, 2008, the Hearing Officer denied the request, and imposed a \$2,000.00 (two thousand dollars) civil penalty. The Hearing Officer further ordered that the number of residents in the house be reduced to not more than 2 unrelated individuals on or before November 1, 2008, and noted that Respondents would be subject to a \$200.00 (two hundred dollars) per day civil penalty for continued violations after that date.

On October 29, 2008, the four tenants, Alexandra Walsh, Bonny Piana, Chelsea Winkoff, and Meghan Grogan through their attorney, Steven L. Tiedemann, Esq., filed a Motion to Intervene, For New Hearing, and For Reconsideration, with the Department of Permits & Development Management.

On October 31, 2008. Respondents appealed the Hearing Officer's Final Order to the Baltimore County Board of Appeals. Before the scheduled January 14, 2009 Hearing, counsel for Baltimore County and Respondents jointly requested that the matter be remanded to the Code Enforcement Hearing Official for further proceedings, on the ground that the appeal is moot. On January 12, 2009, the Board of Appeals remanded the case to the Code Enforcement Hearing Official, as jointly requested by the parties, for further proceedings to take testimony on the violation on the property at issue.

This Hearing was held on February 18, 2009. The following persons appeared for the Hearing: Assistant County Attorney Schniqua L. Roberts, Esq.; Patricia S. Steiger, Esq., on behalf of the Respondents; Alphonso Griffin, Baltimore County Code Enforcement Officer; and Complainants, Fay Citerone and Terry Westhead.

After proper consideration of all the evidence and testimony presented, the Hearing Officer finds:

A. Respondents and Baltimore County have entered into a proposed Consent Agreement, by and through their attorneys. The Agreement was described during the Hearing. The Consent Agreement was executed and delivered to the Hearing Officer on March 5, 2009. Provisions of the Consent Agreement:

1. Respondents to permanently cease using the Property as a rooming/boarding house on or before July 1, 2009.
2. Respondents to allow an interior inspection by a Baltimore County Code Enforcement Officer with twenty-four hour notification.
3. Respondents shall ensure that any all [sic] future lease agreements are in writing.
4. Respondents shall incorporate the following terms in all lease agreements: (1) materially disturbing the peace and quiet enjoyment of the neighborhood is cause for termination of the lease; and

(2) the property is subject to an interior inspection by a Baltimore County Code Enforcement Officer with twenty-four hour notification.

5. Respondents shall make reasonable efforts to ensure that only the leaseholders are residing at the Property.

6. Defendant to pay civil fines in the amount of One Thousand Five Hundred Dollars (\$1,500.00) by March 15, 2009.

B. Ms. Steiger, attorney for Respondents, noted her objection to the fine, noting that a smaller fine was recently imposed on another landlord for a similar violation. Assistant County Attorney Roberts responded that the facts in another case have no bearing on this case. Both attorneys agreed that the \$1,500.00 (one thousand five hundred dollars) fine is part of the proposed Consent Agreement.

C. Complainants who reside in the neighborhood testified. Fay Citerone, President of the Knollwood/Donnybrook neighborhood association, testified that she is not happy that the four tenants will be permitted to stay until June, but that she does not object to the Consent Agreement. She further testified that the proposed civil penalty is appropriate because the owner admitted in September 2008 that there were four unrelated adults living in the property. Terry Westhead, another neighbor, also testified that she does not object to adoption of the Consent Agreement. She further testified that additional adults have moved into the house, with additional vehicles including a pickup truck being parked on the street. Respondent's attorney stated that Respondent will investigate and take all possible steps to ensure that no additional tenants are residing in the property.

D. Respondents have been using this property as an unlicensed rooming/boarding house since fall 2008, in violation of Baltimore County zoning regulations. The proposed Consent Agreement corrects this violation on a schedule that avoids disruption to the four tenants, who are seniors at Towson University. The proposed Consent Agreement provides for correction by a date certain, as it obligates Respondents to permanently cease use of the property as a rooming/boarding house on or before July 1, 2009. It also obligates Respondents to include terms in future lease agreements designed to protect neighbors from disturbance of peace and quiet enjoyment of the neighborhood. Neighbors who appeared at this Hearing stated that they do not object to adoption of the proposed Consent Agreement. Because compliance is the goal of code enforcement, this Hearing Officer finds that the proposed Consent Agreement is a reasonable resolution, and will approve it.

IT IS ORDERED by the Code Enforcement Hearing Officer that the proposed Consent Agreement is approved, and all provisions are hereby ordered and imposed:

1. Respondents to permanently cease using the Property as a rooming/boarding house on or before July 1, 2009.
2. Respondents to allow an interior inspection by a Baltimore County Code Enforcement Officer with twenty-four hour notification.
3. Respondents shall ensure that any all [sic] future lease agreements are in writing.
4. Respondents shall incorporate the following terms in all lease agreements: (1) materially disturbing the peace and quiet enjoyment of the neighborhood is cause for termination of the lease; and (2) the property is subject to an interior inspection by a Baltimore County Code Enforcement Officer with twenty-four hour notification.
5. Respondents shall make reasonable efforts to ensure that only the leaseholders are residing at the Property.
6. Defendant [Respondents] to pay civil fines in the amount of One Thousand Five Hundred Dollars (\$1,500.00) by March 15, 2009.

ORDERED this 24th day of March 2009.

Signed: ORIGINAL SIGNED
Margaret Z. Ferguson
Baltimore County Hearing Officer

NOTICE TO VIOLATOR: The violator is advised that (1) pursuant to §3-6-206(g)(2) of the Baltimore County Code, the Violator may make written application to the Director of the Department of Permits & Development Management within 10 days to modify or amend this order and (2) pursuant to §3-6-301(a), Baltimore County Code, the Violator may appeal this order to the Baltimore County Board of Appeals within fifteen (15) days from the date of this order. Any such appeal requires the filing of a petition setting forth the grounds for appeal, payment of a filing fee of \$150 and the posting of security to satisfy the penalty assessed.